

### **DETAILED ACTION**

This action is issued in response to amendment/RCE filed 7/17/08.

Claims 1-28 were amended. No claims were added. No claims were canceled.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19, and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (U.S. Patent 6,466,915) in view Evans US Patent No. 6,871,012 filed Nov. 22, 2000 and further in view of Reiner et al. (U.S. Patent 7,165,105) and further in view of Henrick (U.S. Patent 6,507,727).

Claim 1, FIG. 1 of Suzuki in view of Henrick illustrates a first device configured to download purchased digital content in the form of a terminal (Fig. 3, elements 312, and 314, Henrick). Henrick is silent with respect to the method of monitoring system consumption of the purchased downloaded.. On the other hand Suzuki discloses the graphical User interface of FIG. 25 of Suzuki is a monitoring system that appears on the terminal and monitors the selection of specific files, such as the selection of "flower-pattern one piece dress. Making selections generates usage data, such a color size price and quantity purchased, which are subsequently sent to the central processing center (100) in FIG. 1. it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the monitoring in the Henrick system. Skilled artisan would have been motivated to make such modification to monitor the users and the download of any digital content to improve and secure the purchasing of any

Art Unit: 2156

digital file. The combination of Suzuki in view of Henrick further discloses a data fields, such as the data fields containing the named color "pink" and the price "6.800" are the usage data storage events associated with the purchased downloaded digital content, system since these fields store usage data until it is sent to the central processing center (100) in FIG. 1. FIG. 11 illustrates a table which forms the usage metrics system. The table permits inferred conclusions, such as the conclusion that a customer prefers a specific size, as illustrated at C in FIG. 7C and described at col. 18, lines 1-6. The table of FIG. 11 is located in the order reception file (3) (col. 13, lines 66-67) which is part of the central processing center (100) and forms a second device remote from the first device (terminal 200). Furthermore the user terminal inherently includes a resume, complete, pause and cancels as part of the computer programs. And to expedite the prosecution of the application a secondary art is presented Evans discloses the use of a resume, complete, pause and cancels as disclosed in Col. 3, lines 41-45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the multi-media of resume, complete, pause and cancel and error as discloses in Col. 5, lines 29-34, Evans. Skilled artisan would have been motivated to incorporate such feature to allow the user to navigate and browses throw the items without change the display on the screen.

The combination of Suzuki in view Henrick and further in view of Evans differs, in that it neither does nor discloses usage events that include play event types describing how the content is consumed and a time stamp indicating when the event occurred.

However, Reiner at FIG. 3B discloses an interface which can create data model which records a play event type (viewing web pages) that describes how digital content is consumed the play type includes at least one of play, pause, and stop, (number of pages viewed during a visit and number of visits during a time period), and a time stamp indicating when the event occurred (the time period of visits from starting date to ending date).

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the combination of Suzuki in view of Evans to further include a data model which records additional usage events in the form of a play event type (viewing of web pages) which describes how the content is used and timestamps indicating the period of use. Such modification would have been

Art Unit: 2156

motivated by the advantage of gauging web marketing performance for e-business decisions, as specified at col. 1, lines 20-30 of Reiner.

Claim 2: The data of FIG. 11 is organized into a plurality of categories, including genre type (good information—102, Suzuki).

Claim 3: The first device (electronic terminal) obtains its digital content from the merchant providing the goods, Suzuki.

Claim 4: Col. 17, lines 40-53, and in particular, lines 40-44 of Suzuki discloses an outline a digital content recommendation system based on the information in the usage metrics. The customer may be recommended specific merchandise via digital advertisement ('goods introduction') to the customer on the basis of past purchases.

Claim 5: The merchant uses the metrics system to select products to recommend to the consumer via digital advertisement ('goods introduction') Suzuki.

Claim 6: The merchant providing the content is a marketing company Fig. 4, step 201 Suzuki.

Claim 7: The selections which are made available to the customer are presented as digital documents (FIG. 21, 22A-22C and 23).

Claim 8: See remarks for claim 1.

Claim 9: See remarks for claim 2.

Claim 10: See remarks for claim 3.

Claim 11: See remarks for claim 4.

Claim 12: See remarks for claim 5.

Claim 13: See remarks for claim 6.

Claim 14: See remarks for claim 1.

Claim 15: See remarks for claim 2.

Claim 16: See remarks for claim 3.

Claim 17: See remarks for claim 4.

Claim 18: See remarks for claim 5.

Claim 19: See remarks for claim 6.

Art Unit: 2156

Claim 20-22: FIGS. 5A-5C of Henrick illustrate a portable device which can download digital audio content, such as a song file ("download song"). The portable device is thus a digital audio player. The digital content can be purchased (abstract, line 1). It would have been obvious to one of ordinary skill in the art to modify the terminal (200) of Suzuki et al. to be a portable cellular terminal configured to additionally download audio content as taught by Henrick so as to permit portability of the terminal and permit both physical items (clothing) and digital content (songs) to be purchased from the same system.

Claim 23: As seen in FIG. 25 of Suzuki, the resulting input data can include a preference for a color of an article or a size of an article.

Claim 24: As seen in FIG. 25 of Suzuki, the resulting input data can indicate the consuming habits of a consumer, such as purchasing dresses.

Claim 26: See remarks for claim 24. Claim 27: See remarks for claim 23. Claim 28: See remarks for claim 24.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-19, 21-28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Point of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sana Al-Hashemi whose telephone number is 571-272-4013. The examiner can normally be reached on 8Am-4:30Pm.

Art Unit: 2156

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pierre Vital can be reached on 571-272-4215. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Sana Al-Hashemi/  
Primary Examiner, Art Unit 2156  
October 22, 2009